

1 HOUSE BILL NO. 701

2 INTRODUCED BY B. GLASER

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING SCHOOL FUNDING; REPLACING THE QUALITY
5 EDUCATOR PAYMENT WITH A PER-CLASSROOM PAYMENT; PROVIDING A DROPOUT PREVENTION
6 PAYMENT; PROVIDING A GIFTED AND TALENTED PER-STUDENT PAYMENT; INCREASING DIRECT
7 STATE AID; REVISING THE DEFINITION OF BASE BUDGET; ELIMINATING THE BASE BUDGET LEVY;
8 ELIMINATING GUARANTEED TAX BASE AID FOR THE BASE BUDGET; REVISING THE FUNDING FOR THE
9 OVER-BASE BUDGET; ELIMINATING SCHOOL DISTRICT BLOCK GRANTS; REVISING THE CALCULATION
10 OF ANB; PROVIDING INFLATIONARY INCREASES TO SCHOOL DISTRICTS; PROVIDING AN
11 APPROPRIATION FOR AT-RISK PAYMENTS; AMENDING SECTIONS 20-3-106, 20-3-324, 20-6-702, 20-7-102,
12 20-9-104, 20-9-141, 20-9-306, 20-9-308, 20-9-311, 20-9-344, 20-9-351, 20-9-366, 20-9-367, 20-9-368, 20-9-369,
13 20-9-515, AND 20-10-144, MCA; REPEALING SECTIONS 20-9-327 AND 20-9-630, MCA; AND PROVIDING
14 AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

15

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17

18 NEW SECTION. **Section 1. Per-classroom payment.** (1) The state shall provide a per-classroom
19 payment to public school districts as defined in 20-6-101 and 20-6-701. The per-classroom payment is \$10,000
20 for each school fiscal year.

21 (2) The number of classrooms for each school district is calculated based on the maximum number of
22 students that may be in each classroom according to the accreditation standards and is adjusted as provided in
23 subsection (4). The student-teacher ratio for a classroom is based upon the size category for an elementary
24 school district or a high school district as described in subsection (3).

25 (3) (a) The size of an elementary school district is the larger of the current year ANB or the average
26 3-year ANB calculated as provided in 20-9-311. The size categories are as follows:

27 (i) "E6" means an elementary school district or a K-12 elementary program with less than 41 ANB;

28 (ii) "E5" means an elementary school district or a K-12 elementary program with at least 41 ANB, but not
29 more than 150 ANB;

30 (iii) "E4" means an elementary school district or a K-12 elementary program with at least 151 ANB, but

1 not more than 400 ANB;

2 (iv) "E3" means an elementary school district or a K-12 elementary program with at least 401 ANB, but
3 not more than 850 ANB;

4 (v) "E2" means an elementary school district or a K-12 elementary program with at least 851 ANB, but
5 not more than 2,500 ANB;

6 (vi) "E1" means an elementary school district or a K-12 elementary program with more than 2,500 ANB.

7 (b) The size of a high school district or a K-12 high school program is the larger of the current year ANB
8 or the average 3-year ANB calculated as provided in 20-9-311. The size categories are as follows:

9 (i) "H5" means a high school district or a K-12 high school program with less than 75 ANB;

10 (ii) "H4" means a high school district or a K-12 high school program with at least 75 ANB, but not more
11 than 200 ANB;

12 (iii) "H3" means a high school district or a K-12 high school program with at least 201 ANB, but not more
13 than 400 ANB;

14 (iv) "H2" means a high school district or a K-12 high school program with at least 401 ANB, but not more
15 than 1,250 ANB;

16 (v) "H1" means a high school district or a K-12 high school program with more than 1,250 ANB.

17 (4) (a) Subject to subsection (4)(b), the student-teacher ratios used to determine the number of
18 classrooms for the per-classroom payment are based on the size categories in subsection (3) and are as follows:

19 (i) E6, 8.6 students per teacher;

20 (ii) E5, 13.5 students per teacher;

21 (iii) E4, 15.4 students per teacher;

22 (iv) E3, 16.6 students per teacher;

23 (v) E2, 17.9 students per teacher;

24 (vi) E1, 19 students per teacher;

25 (vii) H5, 8.5 students per teacher;

26 (viii) H4, 14.4 students per teacher;

27 (ix) H3, 16.6 students per teacher;

28 (x) H2, 17.7 students per teacher; and

29 (xi) H1, 19 students per teacher.

30 (b) Each elementary district must have a minimum of 1 classroom and each high school district must

1 have a minimum of 5 classrooms.

2

3 **NEW SECTION. Section 2. Dropout prevention payment.** The state shall provide a dropout
4 prevention payment to public school districts, as defined in 20-6-101 and 20-6-701, for each ANB in the school
5 district. The dropout prevention payment is the greater of \$65 for each ANB, determined as provided in 20-9-311,
6 or \$1,000 for each school district for each school fiscal year.

7

8 **NEW SECTION. Section 3. Gifted and talented per-student payment.** The state shall provide a gifted
9 and talented per-student payment to public school districts as defined in 20-6-101 and 20-6-701. The gifted and
10 talented per-student payment is the greater of \$31 for each ANB, determined as provided in 20-9-311, or \$350
11 for each school district for each school fiscal year.

12

13 **Section 4.** Section 20-3-106, MCA, is amended to read:

14 **"20-3-106. Supervision of schools -- powers and duties.** The superintendent of public instruction has
15 the general supervision of the public schools and districts of the state and shall perform the following duties or
16 acts in implementing and enforcing the provisions of this title:

17 (1) resolve any controversy resulting from the proration of costs by a joint board of trustees under the
18 provisions of 20-3-362;

19 (2) issue, renew, or deny teacher certification and emergency authorizations of employment;

20 (3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of
21 20-5-314;

22 (4) approve or disapprove the opening or reopening of a school in accordance with the provisions of
23 20-6-502, 20-6-503, 20-6-504, or 20-6-505;

24 (5) approve or disapprove school isolation within the limitations prescribed by 20-9-302;

25 (6) generally supervise the school budgeting procedures prescribed by law in accordance with the
26 provisions of 20-9-102 and prescribe the school budget format in accordance with the provisions of 20-9-103 and
27 20-9-506;

28 (7) establish a system of communication for calculating joint district revenue in accordance with the
29 provisions of 20-9-151;

30 (8) approve or disapprove the adoption of a district's budget amendment resolution under the conditions

1 prescribed in 20-9-163 and adopt rules for an application for additional direct state aid for a budget amendment
2 in accordance with the approval and disbursement provisions of 20-9-166;

3 (9) generally supervise the school financial administration provisions as prescribed by 20-9-201(2);
4 (10) prescribe and furnish the annual report forms to enable the districts to report to the county
5 superintendent in accordance with the provisions of 20-9-213(6) and the annual report forms to enable the county
6 superintendents to report to the superintendent of public instruction in accordance with the provisions of 20-3-209;

7 (11) approve, disapprove, or adjust an increase of the average number belonging (ANB) in accordance
8 with the provisions of 20-9-313 and 20-9-314;

9 (12) distribute BASE aid and special education allowable cost payments in support of the BASE funding
10 program in accordance with the provisions of 20-9-331, 20-9-333, 20-9-342, 20-9-346, and 20-9-347, ~~and~~
11 ~~20-9-366 through 20-9-369~~;

12 (13) provide for the uniform and equal provision of transportation by performing the duties prescribed by
13 the provisions of 20-10-112;

14 (14) request, accept, deposit, and expend federal money in accordance with the provisions of 20-9-603;
15 (15) authorize the use of federal money for the support of an interlocal cooperative agreement in
16 accordance with the provisions of 20-9-703 and 20-9-704;

17 (16) prescribe the form and contents of and approve or disapprove interstate contracts in accordance
18 with the provisions of 20-9-705;

19 (17) recommend standards of accreditation for all schools to the board of public education and evaluate
20 compliance with the standards and recommend accreditation status of every school to the board of public
21 education in accordance with the provisions of 20-7-101 and 20-7-102;

22 (18) collect and maintain a file of curriculum guides and assist schools with instructional programs in
23 accordance with the provisions of 20-7-113 and 20-7-114;

24 (19) establish and maintain a library of visual, aural, and other educational media in accordance with the
25 provisions of 20-7-201;

26 (20) license textbook dealers and initiate prosecution of textbook dealers violating the law in accordance
27 with the provisions of the textbooks part of this title;

28 (21) as the governing agent and executive officer of the state of Montana for K-12 career and
29 vocational/technical education, adopt the policies prescribed by and in accordance with the provisions of
30 20-7-301;

- 1 (22) supervise and coordinate the conduct of special education in the state in accordance with the
2 provisions of 20-7-403;
- 3 (23) administer the traffic education program in accordance with the provisions of 20-7-502;
- 4 (24) administer the school food services program in accordance with the provisions of 20-10-201 through
5 20-10-203;
- 6 (25) review school building plans and specifications in accordance with the provisions of 20-6-622;
- 7 (26) provide schools with information and technical assistance for compliance with the student
8 assessment rules provided for in 20-2-121 and collect and summarize the results of the student assessment for
9 the board of public education and the legislature;
- 10 (27) upon request and in compliance with confidentiality requirements of state and federal law, disclose
11 to interested parties all school district student assessment data for a test required by the board of public
12 education;
- 13 (28) administer the distribution of guaranteed tax base aid in accordance with 20-9-366 through 20-9-369;
14 and
- 15 (29) perform any other duty prescribed from time to time by this title, any other act of the legislature, or
16 the policies of the board of public education."

- 17
- 18 **Section 5.** Section 20-3-324, MCA, is amended to read:
- 19 **"20-3-324. Powers and duties.** As prescribed elsewhere in this title, the trustees of each district shall:
- 20 (1) employ or dismiss a teacher, principal, or other assistant upon the recommendation of the district
21 superintendent, the county high school principal, or other principal as the board considers necessary, accepting
22 or rejecting any recommendation as the trustees in their sole discretion determine, in accordance with the
23 provisions of Title 20, chapter 4;
- 24 (2) employ and dismiss administrative personnel, clerks, secretaries, teacher aides, custodians,
25 maintenance personnel, school bus drivers, food service personnel, nurses, and any other personnel considered
26 necessary to carry out the various services of the district;
- 27 (3) administer the attendance and tuition provisions and govern the pupils of the district in accordance
28 with the provisions of the pupils chapter of this title;
- 29 (4) call, conduct, and certify the elections of the district in accordance with the provisions of the school
30 elections chapter of this title;

- 1 (5) participate in the teachers' retirement system of the state of Montana in accordance with the
2 provisions of the teachers' retirement system chapter of Title 19;
- 3 (6) participate in district boundary change actions in accordance with the provisions of the districts
4 chapter of this title;
- 5 (7) organize, open, close, or acquire isolation status for the schools of the district in accordance with the
6 provisions of the school organization part of this title;
- 7 (8) adopt and administer the annual budget or a budget amendment of the district in accordance with
8 the provisions of the school budget system part of this title;
- 9 (9) conduct the fiscal business of the district in accordance with the provisions of the school financial
10 administration part of this title;
- 11 (10) subject to 15-10-420, establish the ANB, ~~BASE budget levy~~, over-BASE budget levy, additional levy,
12 operating reserve, and state impact aid amounts for the general fund of the district in accordance with the
13 provisions of the general fund part of this title;
- 14 (11) establish, maintain, budget, and finance the transportation program of the district in accordance with
15 the provisions of the transportation parts of this title;
- 16 (12) issue, refund, sell, budget, and redeem the bonds of the district in accordance with the provisions
17 of the bonds parts of this title;
- 18 (13) when applicable, establish, financially administer, and budget for the tuition fund, retirement fund,
19 building reserve fund, adult education fund, nonoperating fund, school food services fund, miscellaneous
20 programs fund, building fund, lease or rental agreement fund, traffic education fund, impact aid fund, interlocal
21 cooperative agreement fund, and other funds as authorized by the state superintendent of public instruction in
22 accordance with the provisions of the other school funds parts of this title;
- 23 (14) when applicable, administer any interlocal cooperative agreement, gifts, legacies, or devises in
24 accordance with the provisions of the miscellaneous financial parts of this title;
- 25 (15) hold in trust, acquire, and dispose of the real and personal property of the district in accordance with
26 the provisions of the school sites and facilities part of this title;
- 27 (16) operate the schools of the district in accordance with the provisions of the school calendar part of
28 this title;
- 29 (17) set the length of the school term, school day, and school week in accordance with 20-1-302;
- 30 (18) establish and maintain the instructional services of the schools of the district in accordance with the

1 provisions of the instructional services, textbooks, K-12 career and vocational/technical education, and special
2 education parts of this title;

3 (19) establish and maintain the school food services of the district in accordance with the provisions of
4 the school food services parts of this title;

5 (20) make reports from time to time as the county superintendent, superintendent of public instruction,
6 and board of public education may require;

7 (21) retain, when considered advisable, a physician or registered nurse to inspect the sanitary conditions
8 of the school or the general health conditions of each pupil and, upon request, make available to any parent or
9 guardian any medical reports or health records maintained by the district pertaining to the child;

10 (22) for each member of the trustees, visit each school of the district not less than once each school fiscal
11 year to examine its management, conditions, and needs, except trustees from a first-class school district may
12 share the responsibility for visiting each school in the district;

13 (23) procure and display outside daily in suitable weather on school days at each school of the district
14 an American flag that measures not less than 4 feet by 6 feet;

15 (24) provide that an American flag that measures approximately 12 inches by 18 inches be prominently
16 displayed in each classroom in each school of the district, except in a classroom in which the flag may get soiled.
17 This requirement is waived if the flags are not provided by a local civic group.

18 (25) adopt and administer a district policy on assessment for placement of any child who enrolls in a
19 school of the district from a nonpublic school that is not accredited, as required in 20-5-110;

20 (26) upon request and in compliance with confidentiality requirements of state and federal law, disclose
21 to interested parties school district student assessment data for any test required by the board of public
22 education;

23 (27) consider and may enter into an interlocal agreement with a postsecondary institution, as defined in
24 20-9-706, that authorizes 11th and 12th grade students to obtain credits through classes available only at a
25 postsecondary institution;

26 (28) approve or disapprove the conduct of school on a Saturday in accordance with the provisions of
27 20-1-303;

28 (29) consider and, if advisable for a high school or K-12 district, establish a student financial institution,
29 as defined in 32-1-115; and

30 (30) perform any other duty and enforce any other requirements for the government of the schools

1 prescribed by this title, the policies of the board of public education, or the rules of the superintendent of public
2 instruction."

3

4 **Section 6.** Section 20-6-702, MCA, is amended to read:

5 **"20-6-702. Funding for K-12 school districts.** (1) Notwithstanding the provisions of subsections (2)
6 through (6), a K-12 school district formed under the provisions of 20-6-701 is subject to the provisions of law for
7 high school districts.

8 (2) The number of elected trustees of the K-12 school district must be based on the classification of the
9 attached elementary district under the provisions of 20-3-341 and 20-3-351.

10 (3) Calculations for the following must be made separately for the elementary school program and the
11 high school program of a K-12 school district:

12 (a) the calculation of ANB for purposes of determining the total per-ANB entitlements must be in
13 accordance with the provisions of 20-9-311; and

14 (b) the basic county tax for elementary equalization and revenue for the elementary BASE funding
15 program for the district must be determined in accordance with the provisions of 20-9-331, and the basic county
16 tax for high school equalization and revenue for the high school BASE funding program for the district must be
17 determined in accordance with 20-9-333; ~~and~~

18 ~~—— (c) the guaranteed tax base aid for BASE funding program purposes for a K-12 school district must be~~
19 ~~calculated separately, using each district's guaranteed tax base ratio, as defined in 20-9-366. The BASE budget~~
20 ~~levy to be levied for the K-12 school district must be prorated based on the ratio of the BASE funding program~~
21 ~~amounts for elementary school programs to the BASE funding program amounts for high school programs.~~

22 (4) The retirement obligation and eligibility for retirement guaranteed tax base aid for a K-12 school
23 district must be calculated and funded as a high school district retirement obligation under the provisions of
24 20-9-501.

25 (5) For the purposes of budgeting for a K-12 school district, the trustees shall adopt a single fund for any
26 of the budgeted or nonbudgeted funds described in 20-9-201 for the costs of operating all grades and programs
27 of the district.

28 (6) Tuition for attendance in the K-12 school district must be determined separately for high school pupils
29 and for elementary pupils under the provisions of 20-5-320 through 20-5-324, except that the actual expenditures
30 used for calculations in 20-5-323 must be based on an amount prorated between the elementary and high school

1 programs in the appropriate funds of each district in the year prior to the attachment of the districts."

2

3 **Section 7.** Section 20-7-102, MCA, is amended to read:

4 **"20-7-102. Accreditation of schools.** (1) The conditions under which each elementary school, each
5 middle school, each junior high school, 7th and 8th grades funded at high school rates, and each high school
6 operates must be reviewed by the superintendent of public instruction to determine compliance with the standards
7 of accreditation. The accreditation status of each school must then be established by the board of public
8 education upon the recommendation of the superintendent of public instruction. Notification of the accreditation
9 status for the applicable school year or years must be given to each district by the superintendent of public
10 instruction.

11 (2) A school may be accredited for a period consisting of 1, 2, 3, 4, or 5 school years, except that
12 multiyear accreditation may be granted only to schools that are in compliance with 20-4-101.

13 (3) A nonpublic school may, through its governing body, request that the board of public education
14 accredit the school. Nonpublic schools may be accredited in the same manner as provided in subsection (1).

15 (4) As used in this section, "7th and 8th grades funded at high school rates" means an elementary school
16 district or K-12 district elementary program whose 7th and 8th grades are funded as provided in
17 ~~20-9-306(14)(c)(iii)~~ 20-9-306(16)(c)(ii)."

18

19 **Section 8.** Section 20-9-104, MCA, is amended to read:

20 **"20-9-104. General fund operating reserve.** (1) At the end of each school fiscal year, the trustees of
21 each district shall designate the portion of the general fund end-of-the-year fund balance that is to be earmarked
22 as operating reserve for the purpose of paying general fund warrants issued by the district from July 1 to
23 November 30 of the ensuing school fiscal year. Except as provided in subsections (5) and (6), the amount of the
24 general fund balance that is earmarked as operating reserve may not exceed 10% of the final general fund
25 budget for the ensuing school fiscal year.

26 (2) The amount held as operating reserve may not be used for property tax reduction in the manner
27 permitted by 20-9-141(1)(b) for other receipts.

28 (3) Excess reserves as provided in subsection (5) may be appropriated to reduce ~~the BASE budget levy;~~
29 ~~the over-BASE budget levy;~~ or the additional levy provided by 20-9-353.

30 (4) Any portion of the general fund end-of-the-year fund balance that is not reserved under subsection

1 (2) or reappropriated under subsection (3) is fund balance reappropriated and must be used for property tax
2 reduction as provided in 20-9-141(1)(b).

3 (5) The limitation of subsection (1) does not apply when the amount in excess of the limitation is equal
4 to or less than the unused balance of any amount:

5 (a) received in settlement of tax payments protested in a prior school fiscal year;

6 (b) received in taxes from a prior school fiscal year as a result of a tax audit by the department of
7 revenue or its agents; or

8 (c) received in delinquent taxes from a prior school fiscal year.

9 (6) The limitation of subsection (1) does not apply when the amount earmarked as operating reserve is
10 \$10,000 or less."

11

12 **Section 9.** Section 20-9-141, MCA, is amended to read:

13 **"20-9-141. Computation of general fund net levy requirement by county superintendent.** (1) The
14 county superintendent shall compute the levy requirement for each district's general fund on the basis of the
15 following procedure:

16 (a) Determine the funding required for the district's final general fund budget less the sum of direct state
17 aid and the special education allowable cost payment for the district by ~~totaling:~~

18 ~~—— (i) the district's nonisolated school BASE budget requirement to be met by a district levy as provided in~~
19 ~~20-9-303, and~~

20 ~~—— (ii) determining any general fund budget amount adopted by the trustees of the district under the~~
21 ~~provisions of 20-9-308 and 20-9-353, including any additional funding for a general fund budget that exceeds the~~
22 ~~maximum general fund budget.~~

23 (b) Determine the money available for the reduction of the property tax on the district for the general fund
24 by totaling:

25 (i) the general fund balance reappropriated, as established under the provisions of 20-9-104;

26 (ii) amounts received in the last fiscal year for which revenue reporting was required for each of the
27 following:

28 (A) interest earned by the investment of general fund cash in accordance with the provisions of
29 20-9-213(4); and

30 (B) any other revenue received during the school fiscal year that may be used to finance the general

1 fund, ~~excluding any guaranteed tax base aid;~~

2 (iii) anticipated oil and natural gas production taxes; and

3 (iv) pursuant to subsection ~~(4)~~ (3), anticipated revenue from coal gross proceeds under 15-23-703; ~~and~~

4 ~~—— (v) school district block grants distributed under 20-9-630.~~

5 (c) ~~Notwithstanding the provisions of subsection (2), subtract~~ Subtract the money available to reduce
6 the property tax required to finance the general fund that has been determined in subsection (1)(b) from any
7 general fund budget amount adopted by the trustees of the district, ~~up to the BASE budget amount, to determine~~
8 ~~the general fund BASE budget levy requirement.~~

9 (d) Determine the sum of any amount remaining after the determination in subsection (1)(c) and any
10 tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through 20-5-324, except
11 the amount of tuition received for a pupil who is a child with a disability in excess of the amount received for a
12 pupil without disabilities, as calculated under 20-5-323(2).

13 (e) Subtract the amount determined in subsection (1)(d) from any additional funding requirement to be
14 met by an over-BASE budget amount, a district levy as provided in 20-9-303, and any additional financing as
15 provided in 20-9-353 to determine any additional general fund levy requirements.

16 ~~(2) The county superintendent shall calculate the number of mills to be levied on the taxable property~~
17 ~~in the district to finance the general fund levy requirement for any amount that does not exceed the BASE budget~~
18 ~~amount for the district by dividing the amount determined in subsection (1)(c) by the sum of:~~

19 ~~—— (a) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified~~
20 ~~by the superintendent of public instruction; and~~

21 ~~—— (b) the current total taxable valuation of the district, as certified by the department of revenue under~~
22 ~~15-10-202, divided by 1,000.~~

23 ~~(3)(2)~~ (2) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be
24 reported to the county commissioners on the fourth Monday of August by the county superintendent as the
25 general fund net levy requirement for the district, and a levy must be set by the county commissioners in
26 accordance with 20-9-142.

27 ~~(4)(3)~~ (3) For each school district, the department of revenue shall calculate and report to the county
28 superintendent the amount of revenue anticipated for the ensuing fiscal year from revenue from coal gross
29 proceeds under 15-23-703."

30

1 **Section 10.** Section 20-9-306, MCA, is amended to read:

2 **"20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following
3 definitions apply:

4 (1) "BASE" means base amount for school equity.

5 (2) "BASE aid" means:

6 (a) direct state aid for ~~44.7%~~ 80% of the basic entitlement and ~~44.7%~~ 80% of the total per-ANB
7 entitlement for the general fund budget of a district;

8 ~~(b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement,~~
9 ~~up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the~~
10 ~~special education allowable cost payment;~~

11 ~~(e)(b)~~ (b) the total ~~quality educator~~ per-classroom payment;

12 ~~(d)(c)~~ (c) the total at-risk student payment;

13 ~~(e)(d)~~ (d) the total Indian education for all payment; ~~and~~

14 ~~(f)(e)~~ (e) the total American Indian achievement gap payment;

15 (f) the total dropout prevention payment; and

16 (g) the total gifted and talented per-student payment.

17 (3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of the basic
18 entitlement, 80% of the total per-ANB entitlement, 100% of the total ~~quality educator~~ per-classroom payment,
19 100% of the total at-risk student payment, 100% of the total Indian education for all payment, 100% of the total
20 American Indian achievement gap payment, 100% of the total dropout prevention payment, 100% of the total
21 gifted and talented per-student payment, and 140% 100% of the special education allowable cost payment.

22 ~~(4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may~~
23 ~~be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through~~
24 ~~20-9-369.~~

25 ~~(5)(4)~~ (4) "BASE funding program" means the state program for the equitable distribution of the state's share
26 of the cost of Montana's basic system of public elementary schools and high schools, through county equalization
27 aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the
28 BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

29 ~~(6)(5)~~ (5) "Basic entitlement" means:

30 (a) ~~\$230,199~~ for each high school district;

- 1 (i) \$236,552 for fiscal year 2008; and
- 2 (ii) \$243,649 for each succeeding fiscal year;
- 3 (b) ~~\$20,718~~ for each elementary school district or K-12 district elementary program without an approved
- 4 and accredited junior high school or middle school;
- 5 (i) \$21,290 for fiscal year 2008;
- 6 (ii) \$21,929 for each succeeding fiscal year; and
- 7 (c) ~~the prorated entitlement~~ for each elementary school district or K-12 district elementary program with
- 8 an approved and accredited junior high school or middle school, ~~calculated as follows using either the current~~
- 9 ~~year ANB or the 3-year ANB provided for in 20-9-311:~~
- 10 (i) ~~\$20,718 times the ratio of the ANB for the~~ kindergarten through grade 6 ~~to the total ANB of~~
- 11 ~~kindergarten through grade 8 elementary program:~~
- 12 (A) \$21,290 for fiscal year 2008; and
- 13 (B) \$21,929 for each succeeding fiscal year; plus
- 14 (ii) ~~\$230,199 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through grade~~
- 15 ~~8~~ \$55,500 for an approved and accredited junior high school or middle school.
- 16 ~~(7)~~(6) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to
- 17 20-9-311.
- 18 ~~(8)~~(7) "Direct state aid" means ~~44.7%~~ 80% of the basic entitlement and ~~44.7%~~ 80% of the total per-ANB
- 19 entitlement for the general fund budget of a district and funded with state and county equalization aid.
- 20 ~~(9)~~(8) "Maximum general fund budget" means a district's general fund budget amount calculated from
- 21 the basic entitlement for the district, the total per-ANB entitlement for the district, the total ~~quality educator~~
- 22 per-classroom payment, the total at-risk student payment, the total Indian education for all payment, the total
- 23 American Indian achievement gap payment, the total dropout prevention payment, the total gifted and talented
- 24 per-student payment, and the greater of:
- 25 (a) 175% of special education allowable cost payments; or
- 26 (b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures
- 27 to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a
- 28 maximum allowable ratio of 200%.
- 29 ~~(10)~~(9) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted
- 30 that is above the BASE budget and below the maximum general fund budget for a district.

1 ~~(11)~~(10) "Total American Indian achievement gap payment" means the payment resulting from multiplying
2 \$200 times the number of American Indian students enrolled in the district as provided in 20-9-330.

3 ~~(12)~~(11) "Total at-risk student payment" means the payment resulting from the distribution of any funds
4 appropriated for the purposes of 20-9-328.

5 (12) "Total dropout prevention payment" means the payment calculated as provided in [section 2].

6 (13) "Total gifted and talented per-student payment" means the payment calculated as provided in
7 [section 3].

8 ~~(14)~~(14) "Total Indian education for all payment" means the payment resulting from multiplying \$20.40
9 times the ANB of the district or \$100 for each district, whichever is greater, as provided for in 20-9-329.

10 ~~(15)~~(15) "Total per-ANB entitlement" means the district entitlement resulting from the following
11 calculations and using either the current year ANB or the 3-year ANB provided for in 20-9-311:

12 (a) for a high school district or a K-12 district high school program, a maximum rate of ~~\$5,704~~ \$5,861
13 for fiscal year 2008 and \$6,037 for each succeeding fiscal year for the first ANB is decreased at the rate of 50
14 cents per ANB for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800
15 receiving the same amount of entitlement as the 800th ANB;

16 (b) for an elementary school district or a K-12 district elementary program without an approved and
17 accredited junior high school or middle school, a maximum rate of ~~\$4,456~~ \$4,579 for fiscal year 2008 and \$4,716
18 for each succeeding fiscal year for the first ANB is decreased at the rate of 20 cents per ANB for each additional
19 ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of
20 entitlement as the 1,000th ANB; and

21 (c) for an elementary school district or a K-12 district elementary program with an approved and
22 accredited junior high school or middle school, the sum of:

23 (i) a maximum rate of ~~\$4,456~~ \$4,579 for fiscal year 2008 and \$4,716 for each succeeding fiscal year for
24 the first ANB for kindergarten through grade 6 is decreased at the rate of 20 cents per ANB for each additional
25 ANB up through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the
26 1,000th ANB; and

27 (ii) a maximum rate of ~~\$5,704~~ \$5,861 for fiscal year 2008 and \$6,037 for each succeeding fiscal year for
28 the first ANB for grades 7 and 8 is decreased at the rate of 50 cents per ANB for each additional ANB for grades
29 7 and 8 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the
30 800th ANB.

1 (16) "Total per-classroom payment" means the payment calculated as provided in [section 1].

2 ~~(15) "Total quality educator payment" means the payment resulting from multiplying \$2,000 times the~~
3 ~~number of full-time equivalent educators as provided in 20-9-327."~~

4

5 **Section 11.** Section 20-9-308, MCA, is amended to read:

6 **"20-9-308. (Temporary) BASE budgets and maximum general fund budgets.** (1) The trustees of a
7 district shall adopt a general fund budget that is at least equal to the BASE budget established for the district and,
8 except as provided in subsection (3), does not exceed the maximum general fund budget established for the
9 district.

10 (2) Whenever the trustees of a district adopt a general fund budget that exceeds the BASE budget for
11 the district but does not exceed the maximum general fund budget for the district, the trustees shall submit a
12 proposition for any necessary levy to the electors of the district, as provided in 20-9-353.

13 (3) (a) (i) Except as provided in subsections (3)(a)(ii) and (3)(b), the trustees of a school district whose
14 previous year's general fund budget exceeds the current year's maximum general fund budget amount may adopt
15 a general fund budget up to the maximum general fund budget amount or the previous year's general fund
16 budget, whichever is greater. Except as provided in subsection (3)(b), a school district may adopt a budget under
17 the criteria of this subsection (3)(a)(i) for a maximum of 5 consecutive years, but the trustees shall adopt a plan
18 to reach the maximum general fund budget by no later than the end of the 5-year period.

19 (ii) Except as provided in subsection (3)(b), the trustees of a district whose general fund budget was
20 above the maximum general fund budget established by Chapter 38, Special Laws of November 1993, and
21 whose general fund budget has continued to exceed the district's maximum general fund budget in each school
22 fiscal year after school fiscal year 1993 may continue to adopt a general fund budget that exceeds the maximum
23 general fund budget. However, the budget adopted for the current year may not exceed the lesser of:

24 (A) the adopted budget for the previous year; or

25 (B) the district's maximum general fund budget for the current year plus the over maximum budget
26 amount adopted for the previous year.

27 (b) A school district that adopted a general fund budget over its maximum general fund budget under
28 any provision of subsection (3)(a) at any time between fiscal year 2001 and fiscal year 2005 may, for fiscal year
29 2006 and fiscal year 2007, adopt the greater of its maximum general fund budget or the highest actual budget
30 adopted between fiscal year 2001 and fiscal year 2005.

1 (c) Except as provided in 20-9-353(8), the trustees of the district shall submit a proposition to raise any
 2 general fund budget amount that is in excess of the maximum general fund budget for the district to the electors
 3 who are qualified under 20-20-301 to vote on the proposition, as provided in 20-9-353.

4 (4) The BASE budget for the district must be financed by the following sources of revenue:

5 (a) state equalization aid, as provided in 20-9-343; ~~including any guaranteed tax base aid for which the~~
 6 ~~district may be eligible, as provided in 20-9-366 through 20-9-369;~~

7 (b) county equalization aid, as provided in 20-9-331 and 20-9-333; and

8 ~~(c) a district levy for support of a school not approved as an isolated school under the provisions of~~
 9 ~~20-9-302;~~

10 ~~(d)~~(c) payments in support of special education programs under the provisions of 20-9-321;

11 ~~—— (e) nonlevy revenue, as provided in 20-9-141; and~~

12 ~~—— (f) a BASE budget levy on the taxable value of all property within the district.~~

13 (5) The over-BASE budget amount of a district must be financed by a levy on the taxable value of all
 14 property within the district or other revenue available to the district, as provided in 20-9-141. (Terminates June
 15 30, 2007--sec. 3, Ch. 190, L. 2005; sec. 25(2), Ch. 462, L. 2005.)

16 **20-9-308. (Effective July 1, 2007) BASE budgets and maximum general fund budgets.** (1) The
 17 trustees of a district shall adopt a general fund budget that is at least equal to the BASE budget established for
 18 the district and, except as provided in subsection (3), does not exceed the maximum general fund budget
 19 established for the district.

20 (2) Whenever the trustees of a district adopt a general fund budget that exceeds the BASE budget for
 21 the district but does not exceed the maximum general fund budget for the district, the trustees shall submit a
 22 proposition for any necessary levy to the electors of the district, as provided in 20-9-353.

23 (3) (a) (i) Except as provided in subsection (3)(a)(ii), the trustees of a school district whose previous
 24 year's general fund budget exceeds the current year's maximum general fund budget amount may adopt a
 25 general fund budget up to the maximum general fund budget amount or the previous year's general fund budget,
 26 whichever is greater. A school district may adopt a budget under the criteria of this subsection (3)(a)(i) for a
 27 maximum of 5 consecutive years, but the trustees shall adopt a plan to reach the maximum general fund budget
 28 by no later than the end of the 5-year period. A school district whose adopted general fund budget for the
 29 previous year exceeds the maximum general fund budget for the current year and whose ANB for the previous
 30 year exceeds the ANB for the current year by 30% or more shall reduce its adopted budget by:

1 (A) in the first year, 20% of the range between the district's adopted general fund budget for the previous
2 school fiscal year and the maximum general fund budget for the current school fiscal year;

3 (B) in the second year, 25% of the range between the district's adopted general fund budget for the
4 previous school fiscal year and the maximum general fund budget for the current school fiscal year;

5 (C) in the third year, 33.3% of the range between the district's adopted general fund budget for the
6 previous school fiscal year and the maximum general fund budget for the current school fiscal year;

7 (D) in the fourth year, 50% of the range between the district's adopted general fund budget for the
8 previous school fiscal year and the maximum general fund budget for the current school fiscal year; and

9 (E) in the fifth year, the remainder of the range between the district's adopted general fund budget for
10 the previous school fiscal year and the maximum general fund budget for the current school fiscal year.

11 (ii) The trustees of a district whose general fund budget was above the maximum general fund budget
12 established by Chapter 38, Special Laws of November 1993, and whose general fund budget has continued to
13 exceed the district's maximum general fund budget in each school fiscal year after school fiscal year 1993 may
14 continue to adopt a general fund budget that exceeds the maximum general fund budget. However, the budget
15 adopted for the current year may not exceed the lesser of:

16 (A) the adopted budget for the previous year; or

17 (B) the district's maximum general fund budget for the current year plus the over maximum budget
18 amount adopted for the previous year.

19 (b) The trustees of the district shall submit a proposition to raise any general fund budget amount that
20 is in excess of the maximum general fund budget for the district to the electors who are qualified under 20-20-301
21 to vote on the proposition, as provided in 20-9-353.

22 (4) The BASE budget for the district must be financed by the following sources of revenue:

23 (a) state equalization aid, as provided in 20-9-343; ~~including any guaranteed tax base aid for which the~~
24 ~~district may be eligible, as provided in 20-9-366 through 20-9-369;~~

25 (b) county equalization aid, as provided in 20-9-331 and 20-9-333; and

26 ~~(c) a district levy for support of a school not approved as an isolated school under the provisions of~~
27 ~~20-9-302;~~

28 ~~(d)~~(c) payments in support of special education programs under the provisions of 20-9-321;

29 ~~(e) nonlevy revenue, as provided in 20-9-141; and~~

30 ~~(f) a BASE budget levy on the taxable value of all property within the district.~~

1 (5) The over-BASE budget amount of a district must be financed by a levy on the taxable value of all
2 property within the district or other revenue available to the district, as provided in 20-9-141."

3

4 **Section 12.** Section 20-9-311, MCA, is amended to read:

5 **"20-9-311. (Temporary) Calculation of average number belonging (ANB) -- three-year averaging.**

6 (1) Average number belonging (ANB) must be computed for each budget unit as follows:

7 (a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were
8 enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on
9 February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and
10 divide the sum by two; and

11 (b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved
12 pupil-instruction-related days for the current school fiscal year and divide by 180.

13 (2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related
14 days may be included in the calculation.

15 (3) When a school district has approval to operate less than the minimum aggregate hours under
16 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

17 (4) (a) Except as provided in subsection (5), for the purpose of calculating ANB, enrollment in an
18 education program:

19 (i) from ~~181~~ 180 to 359 aggregate hours of pupil instruction per school year is counted as
20 one-quarter-time enrollment;

21 (ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time
22 enrollment;

23 (iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time
24 enrollment; and

25 (iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

26 (b) Enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per
27 school year may not be included for purposes of ANB.

28 (c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on
29 the hours necessary and appropriate to provide the course within a regular classroom schedule.

30 (d) A pupil in grades 1 through 12 who is concurrently enrolled in more than one public school, program,

1 or district may not be counted as more than one full-time pupil for ANB purposes.

2 (5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment in
3 a program that provides 360 or more aggregate hours of pupil instruction per school year must be counted as
4 one-half pupil for ANB purposes.

5 (6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days,
6 the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes
7 attendance prior to the day of the enrollment count.

8 (7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB
9 calculations.

10 (8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a
11 district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the
12 district, except that the ANB is calculated as a separate budget unit when:

13 (a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town
14 located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled,
15 full-time pupils of the school must be calculated as a separate budget unit for ANB purposes and the district must
16 receive a basic entitlement for the school calculated separately from the other schools of the district;

17 (ii) a school of the district is located more than 20 miles from any other school of the district and
18 incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school
19 must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school
20 calculated separately from the other schools of the district;

21 (iii) the superintendent of public instruction approves an application not to aggregate when conditions
22 exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any
23 other condition exists that would result in an unusual hardship to the pupils of the school if they were transported
24 to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately
25 for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the
26 other schools of the district; or

27 (iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB and
28 the basic entitlements of the component districts must be calculated separately for a period of 3 years following
29 the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional
30 years as follows:

- 1 (A) 75% of the basic entitlement for the fourth year;
- 2 (B) 50% of the basic entitlement for the fifth year; and
- 3 (C) 25% of the basic entitlement for the sixth year.
- 4 (b) a junior high school has been approved and accredited as a junior high school, all of the regularly
- 5 enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB
- 6 purposes;
- 7 (c) a middle school has been approved and accredited, all pupils below the 7th grade must be
- 8 considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high
- 9 school pupils for ANB purposes; or
- 10 (d) a school has not been accredited by the board of public education, the regularly enrolled, full-time
- 11 pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes,
- 12 nor will an average number belonging for the nonaccredited school be used in determining the BASE funding
- 13 program for the district.
- 14 (9) The district shall provide the superintendent of public instruction with semiannual reports of school
- 15 attendance, absence, and enrollment for regularly enrolled students, using a format determined by the
- 16 superintendent.
- 17 (10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program
- 18 provided by the district through any combination of onsite or offsite instruction may be included for ANB purposes
- 19 only if the pupil is offered access to the complete range of educational services for the basic education program
- 20 required by the accreditation standards adopted by the board of public education.
- 21 (b) Access to school programs and services for a student placed by the trustees in a private program
- 22 for special education may be limited to the programs and services specified in an approved individual education
- 23 plan supervised by the district.
- 24 (c) Access to school programs and services for a student who is incarcerated in a facility, other than a
- 25 youth detention center, may be limited to the programs and services provided by the district at district expense
- 26 under an agreement with the incarcerating facility.
- 27 (d) This subsection (10) may not be construed to require a school district to offer access to activities
- 28 governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a
- 29 pupil who is not otherwise eligible under the rules of the organization.
- 30 (11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this

1 title and who is:

2 (a) a resident of the district or a nonresident student admitted by trustees under a student attendance
3 agreement and who is attending a school of the district;

4 (b) unable to attend school ~~due to~~ because of a medical reason certified by a medical doctor and
5 receiving individualized educational services supervised by the district, at district expense, at a home or facility
6 that does not offer an educational program;

7 (c) unable to attend school ~~due to~~ because of the student's incarceration in a facility, other than a youth
8 detention center, and who is receiving individualized educational services supervised by the district, at district
9 expense, at a home or facility that does not offer an educational program;

10 (d) receiving special education and related services, other than day treatment, under a placement by the
11 trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's
12 expense under an approved individual education plan supervised by the district;

13 (e) participating in the running start program at district expense under 20-9-706;

14 (f) receiving educational services, provided by the district, using appropriately licensed district staff at
15 a private residential program or private residential facility licensed by the department of public health and human
16 services;

17 (g) enrolled in an educational program or course provided at district expense using electronic or offsite
18 delivery methods, including but not limited to tutoring, distance learning programs, online programs, and
19 ~~technology delivered~~ technology-delivered learning programs, while attending a school of the district or any other
20 nonsectarian offsite instructional setting with the approval of the trustees of the district. The pupil shall:

21 (i) meet the residency requirements for that district as provided in 1-1-215;

22 (ii) live in the district and must be eligible for educational services under the Individuals With Disabilities
23 Education Act or under 29 U.S.C. 794; or

24 (iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.

25 (h) a resident of the district attending a Montana job corps program under an interlocal agreement with
26 the district under 20-9-707.

27 (12) (a) For an elementary or high school district that has been in existence for 3 years or more, the
28 district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated
29 using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever
30 generates the greatest maximum general fund budget.

1 (b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund
2 budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and
3 high school programs pursuant to subsection (12)(a) and then combined.

4 (13) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

5 (a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the
6 previous 2 school fiscal years; and

7 (b) dividing the sum calculated under subsection (13)(a) by three. (Terminates June 30, 2007--sec. 25(2),
8 Ch. 462, L. 2005.)

9 **20-9-311. (Effective July 1, 2007) Calculation of average number belonging (ANB) -- three-year**
10 **averaging.** (1) Average number belonging (ANB) must be computed as follows:

11 (a) compute an average enrollment by adding a count of regularly enrolled full-time pupils who were
12 enrolled as of the first Monday in October of the prior school fiscal year to a count of regularly enrolled pupils on
13 February 1 of the prior school fiscal year, or the next school day if those dates do not fall on a school day, and
14 divide the sum by two; and

15 (b) multiply the average enrollment calculated in subsection (1)(a) by the sum of 180 and the approved
16 pupil-instruction-related days for the current school fiscal year and divide by 180.

17 (2) For the purpose of calculating ANB under subsection (1), up to 7 approved pupil-instruction-related
18 days may be included in the calculation.

19 (3) When a school district has approval to operate less than the minimum aggregate hours under
20 20-9-806, the total ANB must be calculated in accordance with the provisions of 20-9-805.

21 (4) (a) Except as provided in subsection (5), for the purpose of calculating ANB, enrollment in an
22 education program:

23 (i) from ~~484~~ 180 to 359 aggregate hours of pupil instruction per school year is counted as
24 one-quarter-time enrollment;

25 (ii) from 360 to 539 aggregate hours of pupil instruction per school year is counted as half-time
26 enrollment;

27 (iii) from 540 to 719 aggregate hours of pupil instruction per school year is counted as three-quarter-time
28 enrollment; and

29 (iv) 720 or more aggregate hours of pupil instruction per school year is counted as full-time enrollment.

30 (b) Enrollment in a program intended to provide fewer than 180 aggregate hours of pupil instruction per

1 school year may not be included for purposes of ANB.

2 (c) Enrollment in a self-paced program or course may be converted to an hourly equivalent based on
3 the hours necessary and appropriate to provide the course within a regular classroom schedule.

4 (d) A pupil in grades 1 through 12 who is concurrently enrolled in more than one public school, program,
5 or district may not be counted as more than one full-time pupil for ANB purposes.

6 (5) In calculating the ANB for pupils enrolled in a program established under 20-7-117(1), enrollment in
7 a program that provides 360 or more aggregate hours of pupil instruction per school year must be counted as
8 one-half pupil for ANB purposes.

9 (6) When a pupil has been absent, with or without excuse, for more than 10 consecutive school days,
10 the pupil may not be included in the enrollment count used in the calculation of the ANB unless the pupil resumes
11 attendance prior to the day of the enrollment count.

12 (7) The enrollment of prekindergarten pupils, as provided in 20-7-117, may not be included in the ANB
13 calculations.

14 (8) The average number belonging of the regularly enrolled, full-time pupils for the public schools of a
15 district must be based on the aggregate of all the regularly enrolled, full-time pupils attending the schools of the
16 district, except that when:

17 (a) (i) a school of the district is located more than 20 miles beyond the incorporated limits of a city or town
18 located in the district and at least 20 miles from any other school of the district, the number of regularly enrolled,
19 full-time pupils of the school must be calculated separately for ANB purposes and the district must receive a basic
20 entitlement for the school calculated separately from the other schools of the district;

21 (ii) a school of the district is located more than 20 miles from any other school of the district and
22 incorporated territory is not involved in the district, the number of regularly enrolled, full-time pupils of the school
23 must be calculated separately for ANB purposes and the district must receive a basic entitlement for the school
24 calculated separately from the other schools of the district;

25 (iii) the superintendent of public instruction approves an application not to aggregate when conditions
26 exist affecting transportation, such as poor roads, mountains, rivers, or other obstacles to travel, or when any
27 other condition exists that would result in an unusual hardship to the pupils of the school if they were transported
28 to another school, the number of regularly enrolled, full-time pupils of the school must be calculated separately
29 for ANB purposes and the district must receive a basic entitlement for the school calculated separately from the
30 other schools of the district; or

- 1 (iv) two or more districts consolidate or annex under the provisions of 20-6-422 or 20-6-423, the ANB and
2 the basic entitlements of the component districts must be calculated separately for a period of 3 years following
3 the consolidation or annexation. Each district shall retain a percentage of its basic entitlement for 3 additional
4 years as follows:
- 5 (A) 75% of the basic entitlement for the fourth year;
6 (B) 50% of the basic entitlement for the fifth year; and
7 (C) 25% of the basic entitlement for the sixth year.
- 8 (b) a junior high school has been approved and accredited as a junior high school, all of the regularly
9 enrolled, full-time pupils of the junior high school must be considered as high school district pupils for ANB
10 purposes;
- 11 (c) a middle school has been approved and accredited, all pupils below the 7th grade must be
12 considered elementary school pupils for ANB purposes and the 7th and 8th grade pupils must be considered high
13 school pupils for ANB purposes; or
- 14 (d) a school has not been accredited by the board of public education, the regularly enrolled, full-time
15 pupils attending the nonaccredited school are not eligible for average number belonging calculation purposes,
16 nor will an average number belonging for the nonaccredited school be used in determining the BASE funding
17 program for the district.
- 18 (9) The district shall provide the superintendent of public instruction with semiannual reports of school
19 attendance, absence, and enrollment for regularly enrolled students, using a format determined by the
20 superintendent.
- 21 (10) (a) Except as provided in subsections (10)(b) and (10)(c), enrollment in a basic education program
22 provided by the district through any combination of onsite or offsite instruction may be included for ANB purposes
23 only if the pupil is offered access to the complete range of educational services for the basic education program
24 required by the accreditation standards adopted by the board of public education.
- 25 (b) Access to school programs and services for a student placed by the trustees in a private program
26 for special education may be limited to the programs and services specified in an approved individual education
27 plan supervised by the district.
- 28 (c) Access to school programs and services for a student who is incarcerated in a facility, other than a
29 youth detention center, may be limited to the programs and services provided by the district at district expense
30 under an agreement with the incarcerating facility.

1 (d) This subsection (10) may not be construed to require a school district to offer access to activities
2 governed by an organization having jurisdiction over interscholastic activities, contests, and tournaments to a
3 pupil who is not otherwise eligible under the rules of the organization.

4 (11) A district may include only, for ANB purposes, an enrolled pupil who is otherwise eligible under this
5 title and who is:

6 (a) a resident of the district or a nonresident student admitted by trustees under a student attendance
7 agreement and who is attending a school of the district;

8 (b) unable to attend school ~~due to~~ because of a medical reason certified by a medical doctor and
9 receiving individualized educational services supervised by the district, at district expense, at a home or facility
10 that does not offer an educational program;

11 (c) unable to attend school ~~due to~~ because of the student's incarceration in a facility, other than a youth
12 detention center, and who is receiving individualized educational services supervised by the district, at district
13 expense, at a home or facility that does not offer an educational program;

14 (d) receiving special education and related services, other than day treatment, under a placement by the
15 trustees at a private nonsectarian school or private program if the pupil's services are provided at the district's
16 expense under an approved individual education plan supervised by the district;

17 (e) participating in the running start program at district expense under 20-9-706;

18 (f) receiving educational services, provided by the district, using appropriately licensed district staff at
19 a private residential program or private residential facility licensed by the department of public health and human
20 services;

21 (g) enrolled in an educational program or course provided at district expense using electronic or offsite
22 delivery methods, including but not limited to tutoring, distance learning programs, online programs, and
23 ~~technology-delivered~~ technology-delivered learning programs, while attending a school of the district or any other
24 nonsectarian offsite instructional setting with the approval of the trustees of the district. The pupil shall:

25 (i) meet the residency requirements for that district as provided in 1-1-215;

26 (ii) live in the district and must be eligible for educational services under the Individuals With Disabilities
27 Education Act or under 29 U.S.C. 794; or

28 (iii) attend school in the district under a mandatory attendance agreement as provided in 20-5-321.

29 (h) a resident of the district attending a Montana job corps program under an interlocal agreement with
30 the district under 20-9-707.

1 (12) (a) For an elementary or high school district that has been in existence for 3 years or more, the
2 district's maximum general fund budget and BASE budget for the ensuing school fiscal year must be calculated
3 using the current year ANB for all budget units or the 3-year average ANB for all budget units, whichever
4 generates the greatest maximum general fund budget.

5 (b) For a K-12 district that has been in existence for 3 years or more, the district's maximum general fund
6 budget and BASE budget for the ensuing school fiscal year must be calculated separately for the elementary and
7 high school programs pursuant to subsection (12)(a) and then combined.

8 (13) The term "3-year ANB" means an average ANB over the most recent 3-year period, calculated by:

9 (a) adding the ANB for the budget unit for the ensuing school fiscal year to the ANB for each of the
10 previous 2 school fiscal years; and

11 (b) dividing the sum calculated under subsection (13)(a) by three."
12

13 **Section 13.** Section 20-9-344, MCA, is amended to read:

14 **"20-9-344. Duties of board of public education for distribution of BASE aid.** (1) The board of public
15 education shall administer and distribute the BASE aid and state advances for county equalization in the manner
16 and with the powers and duties provided by law. The board of public education:

17 (a) shall adopt policies for regulating the distribution of BASE aid and state advances for county
18 equalization in accordance with the provisions of law;

19 (b) may require reports from the county superintendents, county treasurers, and trustees that it considers
20 necessary; and

21 (c) shall order the superintendent of public instruction to distribute the BASE aid on the basis of each
22 district's annual entitlement to the aid as established by the superintendent of public instruction. In ordering the
23 distribution of BASE aid, the board of public education may not increase or decrease the BASE aid distribution
24 to any district on account of any difference that may occur during the school fiscal year between budgeted and
25 actual receipts from any other source of school revenue.

26 (2) The board of public education may order the superintendent of public instruction to withhold
27 distribution of BASE aid from a district when the district fails to:

28 (a) submit reports or budgets as required by law or rules adopted by the board of public education; or

29 (b) maintain accredited status.

30 (3) Prior to any proposed order by the board of public education to withhold distribution of BASE aid or

1 county equalization money, the district is entitled to a contested case hearing before the board of public
2 education, as provided under the Montana Administrative Procedure Act.

3 (4) If a district or county receives more BASE aid than it is entitled to, the county treasurer shall return
4 the overpayment to the state upon the request of the superintendent of public instruction in the manner prescribed
5 by the superintendent of public instruction.

6 (5) Except as provided in 20-9-347(2), the BASE aid payment must be distributed according to the
7 following schedule:

8 (a) from August to October of the school fiscal year, to each district 10% of:

9 (i) direct state aid;

10 (ii) the total ~~quality educator~~ per-classroom payment;

11 (iii) the total at-risk student payment;

12 (iv) the total Indian education for all payment; ~~and~~

13 (v) the total American Indian achievement gap payment;

14 (vi) the total dropout prevention payment; and

15 (vii) the total gifted and talented per-student payment;

16 (b) from December to April of the school fiscal year, to each district 10% of:

17 (i) direct state aid;

18 (ii) the total ~~quality educator~~ per-classroom payment;

19 (iii) the total at-risk student payment;

20 (iv) the total Indian education for all payment; ~~and~~

21 (v) the total American Indian achievement gap payment;

22 (vi) the total dropout prevention payment; and

23 (vii) the total gifted and talented per-student payment;

24 (c) in November of the school fiscal year, one-half of the guaranteed tax base aid payment to each
25 district or county that has submitted a final budget to the superintendent of public instruction in accordance with
26 the provisions of 20-9-134;

27 (d) in May of the school fiscal year, the remainder of the guaranteed tax base aid payment to each district
28 or county; and

29 (e) in June of the school fiscal year, the remaining payment to each district of direct state aid, the total
30 ~~quality educator~~ per-classroom payment, the total at-risk student payment, the total Indian education for all

1 payment, and the total American Indian achievement gap payment, the total dropout prevention payment, and
 2 the total gifted and talented per-student payment.

3 (6) The distribution provided for in subsection (5) must occur by the last working day of each month."
 4

5 **Section 14.** Section 20-9-351, MCA, is amended to read:

6 **"20-9-351. Funding of deficiency in BASE aid.** If the money available for BASE aid is not the result
 7 of a reduction in spending under 17-7-140 and is not sufficient to provide the ~~guaranteed tax base aid required~~
 8 ~~under 20-9-366 through 20-9-369~~ and BASE aid support determined under 20-9-347, the superintendent of public
 9 instruction shall request the budget director to submit a request for a supplemental appropriation in the second
 10 year of the biennium that is sufficient to complete the funding of BASE aid for the elementary and high school
 11 districts for the current biennium."
 12

13 **Section 15.** Section 20-9-366, MCA, is amended to read:

14 **"20-9-366. Definitions.** As used in 20-9-366 through 20-9-371, the following definitions apply:

15 (1) "County retirement mill value per elementary ANB" or "county retirement mill value per high school
 16 ANB" means the sum of the taxable valuation in the previous year of all property in the county divided by 1,000,
 17 with the quotient divided by the total county elementary ANB count or the total county high school ANB count
 18 used to calculate the elementary school districts' and high school districts' current year total per-ANB entitlement
 19 amounts.

20 (2) ~~(a) "District guaranteed tax base ratio" for guaranteed tax base funding for the BASE budget of an~~
 21 ~~eligible district means the taxable valuation in the previous year of all property in the district divided by the sum~~
 22 ~~of the district's current year BASE budget amount less direct state aid and the state special education allowable~~
 23 ~~cost payment.~~

24 ~~——(b) "District mill value per ANB", for school facility entitlement purposes, means the taxable valuation in~~
 25 ~~the previous year of all property in the district divided by 1,000, with the quotient divided by the ANB count of the~~
 26 ~~district used to calculate the district's current year total per-ANB entitlement amount.~~

27 (3) "Facility guaranteed mill value per ANB", for school facility entitlement guaranteed tax base purposes,
 28 means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 140% and
 29 divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school
 30 ANB count used to calculate the elementary school districts' and high school districts' current year total per-ANB

1 entitlement amounts.

2 (4) ~~(a) "Statewide elementary guaranteed tax base ratio" or "statewide high school guaranteed tax base~~
 3 ~~ratio", for guaranteed tax base funding for the BASE budget of an eligible district, means the sum of the taxable~~
 4 ~~valuation in the previous year of all property in the state, multiplied by 175% and divided by the total sum of either~~
 5 ~~the state elementary school districts' or the high school districts' current year BASE budget amounts less total~~
 6 ~~direct state aid.~~

7 ~~——(b) "Statewide mill value per elementary ANB" or "statewide mill value per high school ANB", for school~~
 8 ~~retirement guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all~~
 9 ~~property in the state, multiplied by 121% and divided by 1,000, with the quotient divided by the total state~~
 10 ~~elementary ANB count or the total state high school ANB amount used to calculate the elementary school~~
 11 ~~districts' and high school districts' current year total per-ANB entitlement amounts."~~

12

13 **Section 16.** Section 20-9-367, MCA, is amended to read:

14 **"20-9-367. Eligibility to receive guaranteed tax base aid or state advance or reimbursement for**
 15 **school facilities.** ~~(1) If the district guaranteed tax base ratio of any elementary or high school district is less than~~
 16 ~~the corresponding statewide elementary or high school guaranteed tax base ratio, the district may receive~~
 17 ~~guaranteed tax base aid based on the number of mills levied in the district in support of up to 35.3% of the basic~~
 18 ~~entitlement, up to 35.3% of the total per-ANB entitlement, and up to 40% of the special education allowable cost~~
 19 ~~payment budgeted within the general fund budget.~~

20 ~~(2)(1) If the county retirement mill value per elementary ANB or the county retirement mill value per high~~
 21 ~~school ANB is less than the corresponding statewide mill value per elementary ANB or high school ANB, the~~
 22 ~~county may receive guaranteed tax base aid based on the number of mills levied in the county in support of the~~
 23 ~~retirement fund budgets of the respective elementary or high school districts in the county.~~

24 ~~(3)(2) For the purposes of 20-9-370 and 20-9-371, if the district mill value per elementary ANB or the~~
 25 ~~district mill value per high school ANB is less than the corresponding statewide mill value per elementary ANB~~
 26 ~~or statewide mill value per high school ANB, the district may receive a state advance or reimbursement for school~~
 27 ~~facilities in support of the debt service fund."~~

28

29 **Section 17.** Section 20-9-368, MCA, is amended to read:

30 **"20-9-368. Amount of guaranteed tax base aid.** (1) The amount of guaranteed tax base aid per ANB

1 that a county may receive in support of the retirement fund budgets of the elementary school districts in the
 2 county is the difference between the county mill value per elementary ANB and the statewide mill value per
 3 elementary ANB, multiplied by the number of mills levied in support of the retirement fund budgets for the
 4 elementary districts in the county.

5 (2) The amount of guaranteed tax base aid per ANB that a county may receive in support of the
 6 retirement fund budgets of the high school districts in the county is the difference between the county mill value
 7 per high school ANB and the statewide mill value per high school ANB, multiplied by the number of mills levied
 8 in support of the retirement fund budgets for the high school districts in the county.

9 ~~(3) The amount of guaranteed tax base aid that a district may receive in support of up to 35.3% of the~~
 10 ~~basic entitlement, up to 35.3% of the total per ANB entitlement budgeted within the general fund budget, and up~~
 11 ~~to 40% of the special education payment is calculated in the following manner:~~

12 ~~—— (a) multiply the sum of the district's BASE budget amount less direct state aid by the corresponding~~
 13 ~~statewide guaranteed tax base ratio;~~

14 ~~—— (b) subtract the taxable valuation of the district from the product obtained in subsection (3)(a); and~~

15 ~~—— (c) divide the remainder by 1,000 to determine the equivalent to the dollar amount of guaranteed tax~~
 16 ~~base aid for each mill levied.~~

17 ~~(4)(3) Guaranteed tax base aid provided to any county or district under this section is earmarked to~~
 18 ~~finance the fund or portion of the fund for which it is provided. If a county or district receives more guaranteed tax~~
 19 ~~base aid than it is entitled to, the excess must be returned to the state as required by 20-9-344."~~

20

21 **Section 18.** Section 20-9-369, MCA, is amended to read:

22 **"20-9-369. Duties of superintendent of public instruction and department of revenue.** (1) The
 23 superintendent of public instruction shall administer the distribution of guaranteed tax base aid by:

24 ~~(a) providing each school district and county superintendent, by March 1 of each year, with the~~
 25 ~~preliminary statewide and district guaranteed tax base ratios and, by May 1 of each year, with the final statewide~~
 26 ~~and district guaranteed tax base ratios, for use in calculating the guaranteed tax base aid available for the~~
 27 ~~ensuing school fiscal year;~~

28 ~~(b)(a) providing each school district and county superintendent, by March 1 of each year, with the~~
 29 ~~preliminary statewide, county, and district mill values per ANB and, by May 1 of each year, with the final~~
 30 ~~statewide, county, and district mill values per ANB, for use in calculating the guaranteed tax base aid and state~~

1 advance and reimbursement for school facilities available to counties and districts for the ensuing school fiscal
2 year;

3 ~~(e)~~(b) requiring each county and district that qualifies and applies for guaranteed tax base aid to report
4 to the county superintendent all budget and accounting information required to administer the guaranteed tax
5 base aid;

6 ~~(d)~~(c) keeping a record of the complete data concerning appropriations available for guaranteed tax base
7 aid and the entitlements for the aid of the counties and districts that qualify;

8 ~~(e)~~(d) distributing the guaranteed tax base aid entitlement to each qualified county or district from the
9 appropriations for that purpose.

10 (2) The superintendent shall adopt rules necessary to implement 20-9-366 through 20-9-369.

11 (3) The department of revenue shall provide the superintendent of public instruction by December 1 of
12 each year a final determination of the taxable value of property within each school district and county of the state
13 reported to the department of revenue based on information delivered to the county clerk and recorder as
14 required in 15-10-305.

15 (4) The superintendent of public instruction shall calculate the district and statewide ~~guaranteed tax base~~
16 ~~ratios by applying the prior year's direct state aid payment~~ mill values for guaranteed tax base purposes."

17

18 **Section 19.** Section 20-9-515, MCA, is amended to read:

19 **"20-9-515. Litigation reserve fund.** (1) The trustees of a school district may establish a litigation reserve
20 fund only when litigation that is pending against the district could result in an award against the district.

21 (2) At the end of each school fiscal year, the trustees of a district may transfer money from the general
22 fund, within the adopted budget, to establish the fund.

23 (3) Upon conclusion of litigation, the balance of the money in the fund reverts to the general fund and
24 must be used to reduce the district's general fund ~~BASE~~ over-BASE budget levy requirement computed pursuant
25 to 20-9-141."

26

27 **Section 20.** Section 20-10-144, MCA, is amended to read:

28 **"20-10-144. Computation of revenue and net tax levy requirements for district transportation fund**
29 **budget.** Before the second Monday of August, the county superintendent shall compute the revenue available
30 to finance the transportation fund budget of each district. The county superintendent shall compute the revenue

1 for each district on the following basis:

2 (1) The "schedule amount" of the budget expenditures that is derived from the rate schedules in
3 20-10-141 and 20-10-142 must be determined by adding the following amounts:

4 (a) the sum of the maximum reimbursable expenditures for all approved school bus routes maintained
5 by the district (to determine the maximum reimbursable expenditure, multiply the applicable rate for each bus mile
6 by the total number of miles to be traveled during the ensuing school fiscal year on each bus route approved by
7 the county transportation committee and maintained by the district); plus

8 (b) the total of all individual transportation per diem reimbursement rates for the district as determined
9 from the contracts submitted by the district multiplied by the number of pupil-instruction days scheduled for the
10 ensuing school attendance year; plus

11 (c) any estimated costs for supervised home study or supervised correspondence study for the ensuing
12 school fiscal year; plus

13 (d) the amount budgeted in the budget for the contingency amount permitted in 20-10-143, except if the
14 amount exceeds 10% of the total of subsections (1)(a), (1)(b), and (1)(c) or \$100, whichever is larger, the
15 contingency amount on the budget must be reduced to the limitation amount and used in this determination of
16 the schedule amount; plus

17 (e) any estimated costs for transporting a child out of district when the child has mandatory approval to
18 attend school in a district outside the district of residence.

19 (2) (a) The schedule amount determined in subsection (1) or the total transportation fund budget,
20 whichever is smaller, is divided by 2 and is used to determine the available state and county revenue to be
21 budgeted on the following basis:

22 (i) one-half is the budgeted state transportation reimbursement; and

23 (ii) one-half is the budgeted county transportation fund reimbursement and must be financed in the
24 manner provided in 20-10-146.

25 (b) When the district has a sufficient amount of fund balance for reappropriation and other sources of
26 district revenue, as determined in subsection (3), to reduce the total district obligation for financing to zero, any
27 remaining amount of district revenue and fund balance reappropriated must be used to reduce the county
28 financing obligation in subsection (2)(a)(ii) and, if the county financing obligations are reduced to zero, to reduce
29 the state financial obligation in subsection (2)(a)(i).

30 (c) The county revenue requirement for a joint district, after the application of any district money under

1 subsection (2)(b), must be prorated to each county incorporated by the joint district in the same proportion as the
 2 ANB of the joint district is distributed by pupil residence in each county.

3 (3) The total of the money available for the reduction of property tax on the district for the transportation
 4 fund must be determined by totaling:

5 (a) anticipated federal money received under the provisions of 20 U.S.C. 7701, et seq., or other
 6 anticipated federal money received in lieu of that federal act;

7 (b) anticipated payments from other districts for providing school bus transportation services for the
 8 district;

9 (c) anticipated payments from a parent or guardian for providing school bus transportation services for
 10 a child;

11 (d) anticipated or reappropriated interest to be earned by the investment of transportation fund cash in
 12 accordance with the provisions of 20-9-213(4);

13 (e) anticipated revenue from coal gross proceeds under 15-23-703;

14 (f) anticipated oil and natural gas production taxes;

15 (g) anticipated local government severance tax payments for calendar year 1995 production;

16 (h) anticipated transportation payments for out-of-district pupils under the provisions of 20-5-320 through
 17 20-5-324;

18 ~~(i) school district block grants distributed under 20-9-630;~~

19 ~~(j)~~(i) any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year
 20 that may be used to finance the transportation fund; and

21 ~~(k)~~(i) any fund balance available for reappropriation as determined by subtracting the amount of the
 22 end-of-the-year fund balance earmarked as the transportation fund operating reserve for the ensuing school fiscal
 23 year by the trustees from the end-of-the-year fund balance in the transportation fund. The operating reserve may
 24 not be more than 20% of the final transportation fund budget for the ensuing school fiscal year and is for the
 25 purpose of paying transportation fund warrants issued by the district under the final transportation fund budget.

26 (4) The district levy requirement for each district's transportation fund must be computed by:

27 (a) subtracting the schedule amount calculated in subsection (1) from the total preliminary transportation
 28 budget amount; and

29 (b) subtracting the amount of money available to reduce the property tax on the district, as determined
 30 in subsection (3), from the amount determined in subsection (4)(a).

